

LYNCHBURG CIRCUIT  
WESTWARD INVESTMENT  
PROPERTIES

vs.

Case No.:CL21000115-00  
TESLA, INC

# TABLE OF CONTENTS

Document Index	Date Filed	Page
<b>Manuscripts:</b>		
INITIAL FILING - CNTR:	02/10/2021	1 - 5
MISCELLANEOUS	02/10/2021	6 - 6
CORRESPONDENCE	02/10/2021	7 - 9
TESLA, INC D/B/A TESLA MOTORS - SPS	02/10/2021	10 - 12
NOTICE - OF FILING REMOVAL	03/10/2021	13 - 43

I, Kenneth T. Swisher, Clerk of the Lynchburg Circuit, certify that the contents of the record listed in the table of contents constitute the true and complete record, except for exhibits whose omission are noted in the table of contents.

CLERK'S OFFICE U.S. DIST. COURT  
AT LYNCHBURG, VA  
FILED

3/23/2021

JULIA C. DUDLEY, CLERK

BY: s/ A. Little  
DEPUTY CLERK

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF LYNCHBURG

WESTWARD INVESTMENT  
PROPERTIES, L.L.C., a Virginia  
Limited Liability Company

and

TONY DEMARCO WEST

*Plaintiffs,*

v.

TESLA, INC. d/b/a  
TESLA MOTORS, INC.,

Please serve:  
Registered Agent  
C T CORPORATION SYSTEM  
4701 Cox Rd Ste 285  
Glen Allen, VA 23060

*Defendant.*

COMPLAINT

CASE NO.:

CL21000115

---

NOW INTO COURT, through undersigned counsel, come Plaintiffs, Westward Investment Properties, L.L.C., a Virginia Limited Liability Company, and Tony DeMarco West (herein Mr. West) and move the Court for judgment against Defendant Tesla, Inc. d/b/a Tesla Motors, Inc. on the following grounds of fact and law:

1. On September 1, 2019, Plaintiffs purchased a new 2019 Tesla Model X, VIN 5YJXCBE26KF192766, manufactured by Tesla, Inc., from a licensed Tesla dealership located at 9850 W. Broad Street, Glen Allen, VA 23060. The vehicle was purchased with an odometer reading of 50 miles, and for a total delivery price of \$112,363.44.
2. The vehicle came with a warranty from Tesla, Inc. d/b/a Tesla Motors, Inc.

3. The warranty includes Basic Coverage over the entire vehicle, unless specifically excluded, for four years or 60,000 miles, whichever came first.
4. The vehicle's doors in Plaintiffs' vehicle are covered under the Basic Coverage Warranty.
5. On June 9, 2020, Plaintiff Mr. West delivered the vehicle to the dealership's repair facility. The vehicle's passenger side falcon door was not closing properly. At this time, the vehicle had a mileage of 8,903. The dealership attempted to repair the defect and returned the vehicle to Mr. West on June 09, 2020.
6. On August 26, 2020, Mr. West returned the vehicle to the dealership again, to repair right-hand rear falcon door because it was not closing. The dealership attempted to repair the issue and returned the vehicle to Mr. West on August 26, 2020.
7. On September 23, 2020, Mr. West returned the vehicle to the dealership again because the falcon door both would not close all the way and was opening more slowly. The dealership attempted to repair the defects and returned the vehicle to Mr. West on September 23, 2020.
8. On October 28, 2020, Mr. West returned the vehicle to the dealership for repairs to the passenger falcon door that was still not closing. By this time, the left-hand side rear falcon door was opening slowly or not opening at all. The dealership attempted to repair the defect. The vehicle was returned to Mr. West on October 28, 2020.
9. The defects of the driver's side and passenger's side rear falcon doors not opening and/or closing properly remain unrepaired. Plaintiffs' vehicle is defective,

and cannot be repaired after a reasonable number of attempts. Accordingly, Plaintiffs filed this suit.

10. Written notice of the defects and nonconformities to the warranty enumerated above have been provided to Defendant on January 19, 2021 in accordance with VA Code § 59.1-207.13(E).

**COUNT I – VIOLATION OF THE VIRGINIA  
MOTOR VEHICLE WARRANTY ENFORCEMENT ACT**

11. The facts alleged in paragraphs 1-10 are incorporated herein by reference.
12. The Plaintiffs' vehicle is a "lemon" under the Virginia Motor Vehicle Warranty Enforcement Act (VA Code § 59.1-207.9, *et seq.*). Plaintiffs are consumers as defined in VA Code § 59.1-207.11. Defendant Tesla, Inc. d/b/a Tesla Motors, Inc. is a manufacturer as defined in VA Code § 59.1-207.11.
13. It is presumed that a reasonable number of repair attempts have been made pursuant to Virginia Code § 59.1-207.13(B)(2). Defendant Tesla, Inc. d/b/a Tesla Motors, Inc. has not conformed the vehicle to the applicable warranty during the Lemon Law rights period, in spite of notice being given within the required period. The Plaintiffs are entitled to a full buy-back of the vehicle, including: the full contract price, all collateral damages, incidental damages, interest, and reasonable attorney's fees (calculated at \$500.00 per hour or 1/3rd of the total recovery, whichever is greater) and costs.



**COUNT II – VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT**

14. The facts alleged in paragraphs 1-10 are incorporated herein by reference.
15. Plaintiffs are consumers as defined in 15 U.S.C. § 2301(3). Defendant meets the definition of a supplier and warrantor as defined in 15 U.S.C. § 2301(4)-(5). The vehicle is a consumer product as defined in 15 U.S.C. § 2301(1).
16. The vehicle was manufactured after July 4, 1975, and an express Limited Warranty and an implied warranty of merchantability was given to Plaintiffs as a part of the purchase, warranties which meet the definition of written warranty and implied warranty as contained in 15 U.S.C. § 2301(6)-(7), respectively.
17. The Warranty has failed its essential purpose and the Defendant has violated the Act due to their inability to repair or replace the nonconformities within a reasonable time, and their refusal to provide the Plaintiffs with a refund as required in 15 U.S.C. § 2304(a)(1) and (4).
18. The Defendant has also breached its implied warranties of merchantability since the vehicle, in view of the nonconformities that exist and the Defendant's inability to correct them, is not fit for the ordinary purpose for which the vehicle is being used. See 15 U.S.C. §§ 2308, 2310(d).
19. As a proximate result of Defendant's violations of the Magnuson-Moss Warranty Act and breach of their warranties, the Plaintiffs are entitled to rescission of the contract and a full buy-back of the vehicle, including: the full contract price, all collateral damages, incidental damages, interest, and reasonable attorney's fees (calculated at \$500.00 per hour or 1/3rd of the total recovery, whichever is greater) and costs. See 15 U.S.C. §§ 2304(a) and 2310(d).

WHEREFORE, Plaintiffs, Westward Investment Properties, L.L.C. and Tony DeMarco West respectfully pray that this Court enter judgment in their favor against the Defendant, granting Plaintiffs' demands: for rescission of the contract, actual damages of \$112,363.44, for all incidental damages after purchase, for attorney's fees and costs in the amount of \$500.00 per hour or 1/3<sup>rd</sup> of the total recovery, whichever is greater, and all other relief law and equity may provide.

**TRIAL BY JURY IS DEMANDED.**

Respectfully submitted,

Westward Investment Properties, L.L.C. &  
Tony DeMarco West

By: 

Of Counsel

James B. Feinman, Esq. (VSB # 28125)  
Blake K. Huddleston, Esq. (VSB # 93572)  
James B. Feinman & Associates  
1003 Church Street  
PO Box 697  
Lynchburg, Virginia 24505  
434-846-7603  
434-846-0158 (fax)  
[jfb@jfeinman.com](mailto:jfb@jfeinman.com)  
[blake@jfeinman.com](mailto:blake@jfeinman.com)  
*Counsel for Plaintiffs*

VALIDATE CASE PAPERS  
COPY : 21000002818  
DATE : 02/10/2021 TIME: 09:04  
CASE : 680CL21000115-00  
ADCT : WESTWARD INVESTMENT PROPERTIES  
AMT. : \$296.00

**COVER SHEET FOR FILING CIVIL ACTIONS**  
COMMONWEALTH OF VIRGINIACase No. 021-115

(CLERK'S OFFICE USE ONLY)

City of Lynchburg

Circuit Court

Westward Investment Properties L.L.C. &amp; Tony DeMarco West v./In re:

Tesla, Inc. d/b/a Tesla Motors, Inc.

PLAINTIFF(S)

DEFENDANT(S)

I, the undersigned ☐ plaintiff ☐ defendant ☒ attorney for ☒ plaintiff ☐ defendant hereby notify the Clerk of Court that I am filing the following civil action. (Please indicate by checking box that most closely identifies the claim being asserted or relief sought.)

**GENERAL CIVIL****Subsequent Actions**

- ☐ Claim Impleading Third Party Defendant  
☐ Monetary Damages  
☐ No Monetary Damages  
☐ Counterclaim  
☐ Monetary Damages  
☐ No Monetary Damages  
☐ Cross Claim  
☐ Interpleader  
☐ Reinstatement (other than divorce or driving privileges)  
☐ Removal of Case to Federal Court

**Business & Contract**

- ☐ Attachment  
☐ Confessed Judgment  
☒ Contract Action  
☐ Contract Specific Performance  
☐ Detinue  
☐ Garnishment

**Property**

- ☐ Annexation  
☐ Condemnation  
☐ Ejectment  
☐ Encumber/Sell Real Estate  
☐ Enforce Vendor's Lien  
☐ Escheatment  
☐ Establish Boundaries  
☐ Landlord/Tenant  
☐ Unlawful Detainer  
☐ Mechanics Lien  
☐ Partition  
☐ Quiet Title  
☐ Termination of Mineral Rights

**Tort**

- ☐ Asbestos Litigation  
☐ Compromise Settlement  
☐ Intentional Tort  
☐ Medical Malpractice  
☐ Motor Vehicle Tort  
☐ Product Liability  
☐ Wrongful Death  
☐ Other General Tort Liability

**ADMINISTRATIVE LAW**

- ☐ Appeal/Judicial Review of Decision of (select one)  
☐ ABC Board  
☐ Board of Zoning  
☐ Compensation Board  
☐ DMV License Suspension  
☐ Employee Grievance Decision  
☐ Employment Commission  
☐ Local Government  
☐ Marine Resources Commission  
☐ School Board  
☐ Voter Registration  
☐ Other Administrative Appeal

**DOMESTIC/FAMILY**

- ☐ Adoption  
☐ Adoption – Foreign  
☐ Adult Protection  
☐ Annulment  
☐ Annulment – Counterclaim/Responsive Pleading  
☐ Child Abuse and Neglect – Unfounded Complaint  
☐ Civil Contempt  
☐ Divorce (select one)  
☐ Complaint – Contested\*  
☐ Complaint – Uncontested\*  
☐ Counterclaim/Responsive Pleading  
☐ Reinstatement – Custody/Visitation/Support/Equitable Distribution  
☐ Separate Maintenance  
☐ Separate Maintenance Counterclaim

**WRITS**

- ☐ Certiorari  
☐ Habeas Corpus  
☐ Mandamus  
☐ Prohibition  
☐ Quo Warranto

**PROBATE/WILLS AND TRUSTS**

- ☐ Accounting  
☐ Aid and Guidance  
☐ Appointment (select one)  
☐ Guardian/Conservator  
☐ Standby Guardian/Conservator  
☐ Custodian/Successor Custodian (UTMA)  
☐ Trust (select one)  
☐ Impress/Declare/Create  
☐ Reformation  
☐ Will (select one)  
☐ Construe  
☐ Contested

**MISCELLANEOUS**

- ☐ Amend Death Certificate  
☐ Appointment (select one)  
☐ Church Trustee  
☐ Conservator of Peace  
☐ Marriage Celebrant  
☐ Approval of Transfer of Structured Settlement  
☐ Bond Forfeiture Appeal  
☐ Declaratory Judgment  
☐ Declare Death  
☐ Driving Privileges (select one)  
☐ Reinstatement pursuant to § 46.2-427  
☐ Restoration – Habitual Offender or 3<sup>rd</sup> Offense  
☐ Expungement  
☐ Firearms Rights – Restoration  
☐ Forfeiture of Property or Money  
☐ Freedom of Information  
☐ Injunction  
☐ Interdiction  
☐ Interrogatory  
☐ Judgment Lien-Bill to Enforce  
☐ Law Enforcement/Public Official Petition  
☐ Name Change  
☐ Referendum Elections  
☐ Sever Order  
☐ Taxes (select one)  
☐ Correct Erroneous State/Local  
☐ Delinquent  
☐ Vehicle Confiscation  
☐ Voting Rights – Restoration  
☐ Other (please specify)

☐ Damages in the amount of \$ 112,363.44 are claimed.

02/09/2021

DATE

James B. Feinman, Esquire

vs. 02125

PRINT NAME

P.O. Box 697, Lynchburg, VA 24505

ADDRESS/TELEPHONE NUMBER OF SIGNATOR

434-846-7603

jb@jfeinman.com

EMAIL ADDRESS OF SIGNATOR (OPTIONAL)

\*"Contested" divorce means any of the following matters are in dispute: grounds of divorce, spousal support and maintenance, child custody and/or visitation, child support, property distribution or debt allocation. An "Uncontested" divorce is filed on no fault grounds and none of the above issues are in dispute.

# JAMES B. FEINMAN

ATTORNEY AT LAW

JAMES B. FEINMAN, ATTORNEY  
BLAKE K HUDDLESTON, ATTORNEY

1003 CHURCH STREET, P.O. BOX 697  
TELEPHONE (434) 846-7603

LYNCHBURG, VIRGINIA 24505  
FAX (434) 846-0158

February 9, 2021

**Hand-Delivered**

Kenneth T. Swisher, Clerk  
City of Lynchburg Circuit Court  
900 Court Street  
Lynchburg, VA 24504

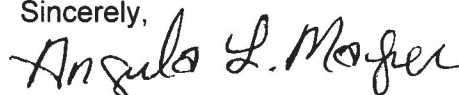
RE: Westward Investment Properties, L.L.C. & Tony DeMarco West v. Tesla, Inc. d/b/a Tesla Motors, Inc.

Dear Mr. Swisher:

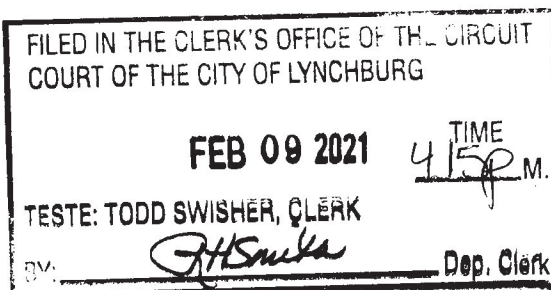
Enclosed please find an original and one copy of a Complaint which Mr. Feinman wishes to file, along with the civil coversheet and our check for the filing fee. Please mark the copy as "filed," issue the summons, and attach it to the extra copy for service by private process server.

Please let me know if you have any questions. Thank you very much for your assistance.

Sincerely,



Angela L. Mayer, Paralegal  
[angela@jfeinman.com](mailto:angela@jfeinman.com)



# JAMES B. FEINMAN

ATTORNEY AT LAW

JAMES B. FEINMAN, ATTORNEY  
BLAKE K HUDDLESTON, ATTORNEY

1003 CHURCH STREET, P.O. BOX 697  
TELEPHONE (434) 846-7603

LYNCHBURG, VIRGINIA 24505  
FAX (434) 846-0158

February 25, 2021

VIA FAX: 434-847-1864  
Kenneth T. Swisher, Clerk  
City of Lynchburg Circuit Court  
900 Court Street  
Lynchburg, VA 24504

RE: Westward Investment Properties, L.L.C. & Tony DeMarco West v. Tesla, Inc. d/b/a Tesla Motors, Inc.  
Case # CL21000115-00

Dear Mr. Swisher:

Attached please find an Affidavit of Service of the above-referenced Complaint on the Registered Agent for the defendant, Tesla, Inc. on February 16, 2021.

Please place this in the Court's file. Thank you very much for your assistance.

Sincerely,



Angela L. Mayer, Paralegal  
[angela@jfeinman.com](mailto:angela@jfeinman.com)

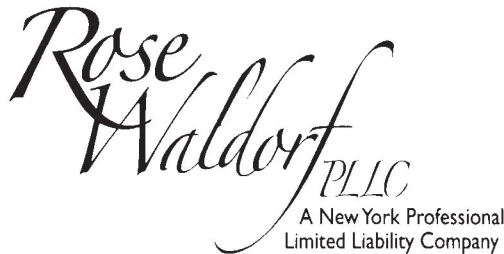
Attachment

{3633 / 001}

FILED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF LYNCHBURG	
FEB 25 2021	TIME 4:19 p. M.
TESTE: TODD SWISHER, CLERK	
BY: <u>J. Harris</u>	Dep. Clerk



501 New Karner Rd. / Albany, NY 12205  
518-869-9200 / FAX: 518-869-3334



Keith B. Rose  
Attorney At Law  
NY, NJ, PA, MA, CT, GA, WV

Jon B. Waldorf  
Attorney At Law  
NY, NJ, PA, MA, CT, GA, MD, AL, NC  
SC, KY, RI

Michael J. Gregg  
Attorney At Law  
NY, NJ, PA, MA, CT, WV, AL  
SC, TN, CA, VA

Mark W. Skanes  
Attorney At Law  
NY, NJ, PA, MA, CT, GA, WV  
NC, VA, NH, CA, VT

Cassandra M. Gipe  
Attorney At Law  
NY, MA, WV

Lindsey R. Dodd  
Attorney At Law  
NY, NJ, PA, NH, CT, AL, SC

Alexandra N. Husain  
Attorney At Law  
NY, NJ, PA, WV

Alexandra E. Newcomb  
Attorney At Law  
NY, NJ, PA, CA

Katelynn R. Balsamico  
Attorney At Law  
NY, NJ, SC, NH, PA, ME, VT

March 9, 2021

**VIA OVERNIGHT DELIVERY**

Lynchburg Circuit Court  
900 Court Street  
Lynchburg, VA 24505-0004

Re: Westward Investment Properties L.L.C., et al v. TESLA, Inc.  
Case No. CL21000115

Dear Sir or Madam:

Enclosed for filing on behalf of Tesla Motors, Inc., please find Notice of Filing of Removal, Notice of Removal and Certificate of Service with respect to the above-captioned action.

Please date-stamp the enclosed copy of this letter as proof of filing and return it to me in the self-addressed, stamped envelope enclosed.

Your courtesies and cooperation in this matter are greatly appreciated. Should you have any questions, please contact me.

Very truly yours,

Mark W. Skanes

MWS/mmk

Enclosures

cc: James B. Feinman, Esq. (via email and mail)

J:\Data\TESLA\52042\Correspondence\Woods - Ltr to Clerk with Notice of Filing of Removal and filed Notice of Removal.docx

FILED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF LYNCHBURG	
MAR 10 2021	TIME 11:20 AM
TESTE TODD SWISHER CLERK	
BY: <i>[Signature]</i>	Dep. Clerk 9



**AFFIDAVIT OF SERVICE**

State of Virginia

County of Lynchburg (City)

Circuit Court

Case Number: CL21000115-00

Plaintiff:

**Westward Investment Properties**

vs.

Defendant:

**Tesla, Inc.**

For:

Feinman, James B,  
1003 Church Street  
P.O. Box 697  
Lynchburg, VA 24505

Received by Richmond Court Services Inc. to be served on Tesla, Inc. c/o CT Corporation System (Registered Agent), 4701 Cox Road, Suite 285, Glen Allen, VA 23060.

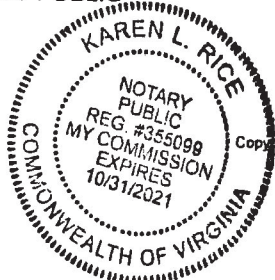
I, Kenneth Condrey, being duly sworn, depose and say that on the 16th day of February, 2021 at 12:55 pm, I:

served an **AUTHORIZED** entity by delivering a true copy of the **Summons & Complaint** to: **Jessica Fitzgerald as Authorized Agent** at the address of: **4701 Cox Road, Suite 285, Glen Allen, VA 23060**, who stated they are authorized to accept service for **Tesla, Inc.**, and informed said person of the contents therein, in compliance with state statutes.

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served.

Subscribed and Sworn to before me on the 16th day of February, 2021 by the affiant who is personally known to me.

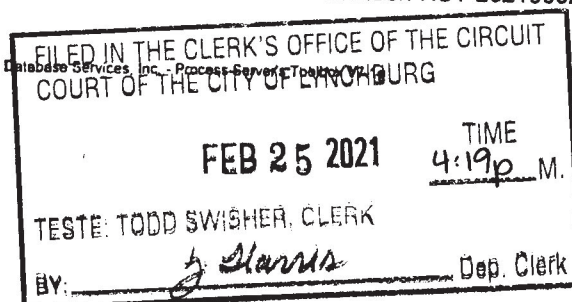
*Karen L. Rice*  
NOTARY PUBLIC



*Kenneth Condrey*  
Kenneth Condrey  
Process Server

Richmond Court Services Inc.  
7742 Robinwood Drive  
Chesterfield, VA 23832  
(804) 271-1442

Our Job Serial Number: RCT-2021000259



COMMONWEALTH OF VIRGINIA



LYNCHBURG CIRCUIT COURT  
Civil Division  
900 COURT STREET P. O. BOX 4  
LYNCHBURG VA 24505  
(434) 455-2620

Virginia:  
In the LYNCHBURG CIRCUIT COURT

Proof of Service

Case number: 680CL21000115-00  
Service number: 001  
Service filed: February 10, 2021  
Judge:

Served by: SPECIAL PROCESS SERVER  
Style of case: WESTWARD INVESTMENT PROPERTIES vs TESLA, INC  
Service on: TESLA, INC D/B/A TESLA MOTORS  
R/A CT CORPORATION SYSTEM  
4701 COX RD  
STE 285  
GLEN ALLEN VA 23060

Attorney: FEINMAN, JAMES  
1003 CHURCH ST  
LYNCHBURG VA 24505

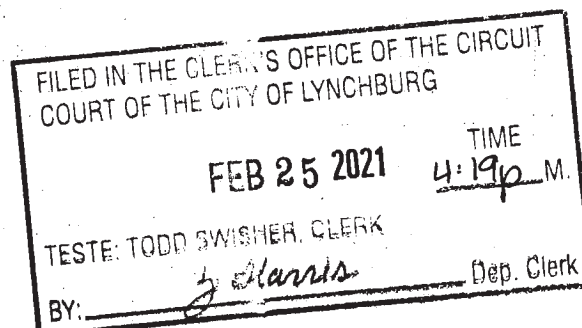
Instructions:

Returns shall be made hereon, showing service of Summons issued Wednesday, February 10, 2021 with a copy of the Complaint filed Wednesday, February 10, 2021 attached.

Hearing date :

Service issued: Wednesday, February 10, 2021

For Sheriff Use Only



## Service Authorization CT Corporation System

CT Corporation System ("CT") is registered agent for service of process for numerous corporations and similar entities. CT receives the process only in its capacity as a commercial registered agent. The individuals designated below are employees of CT Corporation System and in receiving the process, do so only on CT's behalf and in CT's capacity as registered agent.

**PLEASE NOTE:** The Code of Virginia §§ 13.1-634 provides in part:  
"Registered office and registered agent.

A....

B. The sole duty of the registered agent is to forward to the corporation at its last known address any process, notice or demand that is served on the registered agent."

*As such, neither CT Corporation System, nor its individual employees designated below, have the duty or the ability to respond to any legal process, notice or demand that is served on CT's clients.*

The following natural persons are designated in the office of the registered agent upon whom any process, notice or demand may be served:

Katie Bush

Teresa Brown

Jessica Fitzgerald

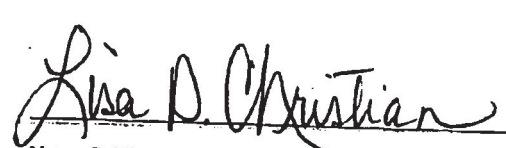
This authorization does not certify the receipt or acceptance of any specific process

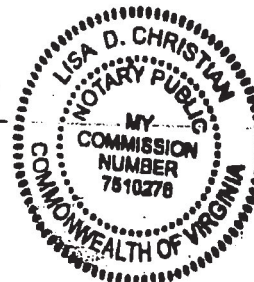
  
Teresa Brown  
Team Leader  
CT Corporation System

State of Virginia  
County of Henrico

This day personally appeared before me, Teresa Brown, who name is signed above and who, being first duly sworn, upon her oath, state that the foregoing Affidavit is true to the best of her knowledge and belief.

Subscribed and sworn before me this 30<sup>th</sup> day of April, 2018.

  
Notary Public



FILED IN THE CLERK'S OFFICE OF THE CIRCUIT  
COURT OF THE CITY OF LYNCHBURG

FEB 25 2021

TIME  
4:19 p M.

TESTE: TODD SWISHER, CLERK

BY:  Dep. Clerk

**VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF LYNCHBURG, VIRGINIA**

**WESTWARD INVESTMENT PROPERTIES  
L.L.CL. AND TONY DEMARCO WEST**

**Plaintiffs**

**v.**

**TESLA, INC. d/b/a Tesla Motors, Inc.**

**Defendant.**

**Case No.: CL21000115**

**NOTICE FILING OF REMOVAL**

NOW COMES Defendant Tesla Motors, Inc. (named herein as Tesla, Inc. d/b/a Tesla Motors, Inc. ["Tesla"]), by its attorneys, RoseWaldorf PLLC, and hereby provides notice that it has filed a Notice of Removal in the United States District Court for the Western District of Virginia pursuant to 28 U.S.C §§ 1441(a) and 1446. A copy of the Notice of Removal is annexed hereto as Exhibit "A".

This action is now removed to the aforementioned United States District Court and the Circuit Court, City of Lynchburg, Virginia shall proceed no further in this matter.

Dated: Albany, New York  
March 9, 2021

By: \_\_\_\_\_

ROSEWALDORF PLLC

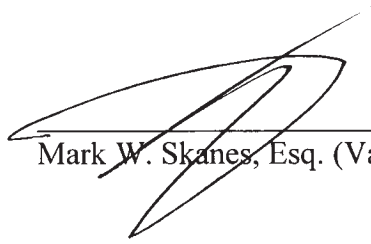
(Va. Bar No. 86953)  
Attorneys for Defendant  
Tesla Motors, Inc.  
501 New Karner Rd.  
Albany, New York 12205  
Phone: (518) 869-9200  
Fax: (518) 869-3334  
mskanes@rosewaldorf.com

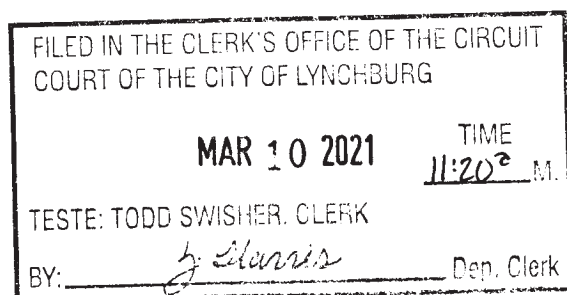
**CERTIFICATE OF SERVICE**

I hereby certify that this Notice of Filing of Removal was served this date, March 9, 2021, upon counsel of record, via U.S. Mail and email, as follows:

James B. Feinman, Esq.  
James B. Feinman & Associates  
1003 Church St.  
P.O. Box 697  
Lynchburg, Virginia 24505

Dated: Albany, New York  
March 9, 2021

  
\_\_\_\_\_  
Mark W. Skanes, Esq. (Va. Bar No.: 86953)



# EXHIBIT A

FILED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF LYNCHBURG	
MAR 10 2021	TIME 11:20 <sup>0</sup> M.
TESTE: TODD SWISHER, CLERK	
BY: <u>J. Dennis</u>	Dep. Clerk



**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**

CLERKS OFFICE U.S. DIST. COURT  
AT LYNCHBURG, VA  
FILED  
3/9/2021  
JULIA C. DUDLEY, CLERK  
BY: s/ CARMEN AMOS  
DEPUTY CLERK

**WESTWARD INVESTMENT  
PROPERTIES, L.L.C. and  
TONY DEMARCO WEST**

**Plaintiffs**

**v.**

**TESLA, INC. d/b/a Tesla Motors, Inc.**

**Defendant.**

**Case No.: 6:21CV00012**

**NOTICE OF REMOVAL**

Defendant Tesla Motors, Inc. (named herein as Tesla, Inc. d/b/a Tesla Motors, Inc. ["Tesla"]) hereby removes to this Court, pursuant to 28 U.S.C. §§ 1441 and 1446, an action pending in the Circuit Court, City of Lynchburg, Virginia, Case No.: CL21000115 ("state action"). Removal is proper for the following reasons:

**RELEVANT PROCEDURAL HISTORY**

1. On or about February 10, 2021, Plaintiffs Westward Investment Properties, L.L.C. and Tony DeMarco West ("Plaintiffs") filed the state action as against Defendant Tesla, asserting claims for violation of the Virginia Motor Vehicle Warranty Enforcement Act ("Lemon Law") (Count I) and for breach of express and implied warranties under the federal Magnuson-Moss Warranty Act ("MMWA") (Count II) (*see* Summons and Complaint, attached hereto as Exhibit "A").

2. Plaintiffs' claims are all based upon allegations that their 2019 Tesla Model X, VIN: 5YJXCBE26KF192766 ("subject vehicle") contained alleged defects relating to the doors that

Plaintiffs allege were not timely repaired pursuant to the Tesla written limited warranty (Complaint, Exhibit “A” hereto).

3. In connection with both claims, Plaintiffs seek a “full buy-back of the vehicle, including: the full contract price, all collateral damages, incidental damages, interest, and reasonable attorney’s fees (calculated as \$500.00 per hour or 1/3<sup>rd</sup> of the total recover, whichever is greater) and costs” (*see* Complaint ¶¶ 13, 19).

4. Plaintiffs allege they purchased the subject vehicle on September 1, 2019 and paid a purchase price of \$112,363.44 (*id.* ¶ 1).

5. On or about February 16, 2021, Defendant Tesla first received a copy of the Summons and Complaint.

6. Therefore, this Notice of Removal is timely, as it is filed within thirty (30) days of receipt of the Complaint by Defendant. *See* 28 U.S.C. § 1446(b).

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**BASIS FOR REMOVAL**

**I. THIS COURT HAS JURISDICTION OVER THIS MATTER PURSUANT TO 28 U.S.C. § 1332**

7. Pursuant to 28 U.S.C. § 1441 (a), a defendant may remove to federal district court, “any civil action brought in a State court of which the district courts of the United States have original jurisdiction.”

8. Pursuant to 28 U.S.C. § 1332, a federal district court will have original jurisdiction over all “civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between – (1) citizens of different States . . . .” A corporation is deemed a citizen of “every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.” 28 U.S.C. § 1332(c).

**A. Complete Diversity Exists.**

9. Defendant Tesla, Motors, Inc. is incorporated under the laws of the State of Delaware with a principal place of business located in California (*see* Entity Information, Tesla Motors, Inc., Exhibit “B” hereto).

10. Plaintiff Westward Investment Properties, L.L.C. is organized under the laws of the Commonwealth of Virginia with a principal place of business located in Virginia (*see* Entity Information, Westward Investment Properties, L.L.C, Exhibit “C” hereto; *see also* Complaint, Exhibit “A” hereto).

11. Plaintiff Tony DeMarco West is a citizen of Virginia (*see* Retail Installment Contract, Exhibit “D” hereto).

12. Therefore, there is complete diversity of citizenship of the parties.

**B. The Amount in Controversy Exceeds \$75,000.**

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13. The test for determining the amount in controversy in a diversity jurisdiction action is “the pecuniary result to either party which a judgment would produce.” *See Dixon v. Edwards*, 290 F.3d 699, 710 (4<sup>th</sup> Cir.2002) citing *Gov’t Employees Ins. Co. v. Lally*, 327 F.2d 568, 569 (4<sup>th</sup> Cir.1964). Furthermore, “if the plaintiff’s complaint, filed in state court, demands monetary relief of a stated sum, that sum, if asserted in good faith, is ‘deemed to be the amount in controversy.’” *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 84 (2014); *see also JHT Tax, Inc. v. Frashier*, 624 F.3d 635, 683 (4<sup>th</sup> Cir. 2010) (holding that “[i]n most cases, the ‘sum claimed by the plaintiff controls’ the amount in controversy determination”).

14. Here, Plaintiffs have asserted claims under the Virginia Lemon Law and the MMWA (*see* Complaint, Exhibit “A” hereto). Under both claims, Plaintiffs seek to recover a refund of the purchase price of the subject vehicle, alleged to be \$112,363.44, in addition to incidental damages and

attorneys' fees (*see id.*). Therefore, by Plaintiffs' own allegations of actual damages sought (and without considering the incidental damages or attorneys' fees claimed), the \$75,000 amount in controversy threshold is met. *See Woods v. Maserati North America, Inc.*, 2018 WL 5018453 (E.D.Va. 2018) (finding jurisdiction proper where the plaintiff sought recovery of a refund of an alleged vehicle purchase price of \$89,170.34 in connection with claims under the Virginia Lemon Law and the MMWA).

15. Accordingly, it is facially apparent from the Complaint that the amount in controversy exceeds \$75,000. Therefore, this Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

**II. THIS COURT HAS JURISDICTION OVER THIS MATTER PURSUANT TO 28 U.S.C. § 1331**

16. In addition to proper jurisdiction under 28 U.S.C. § 1332, this Court has jurisdiction ~~over this matter pursuant to 28 U.S.C. § 1331. Section 1331 provides that “[t]he district courts shall~~ have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States.”

17. Accordingly, this Court has original jurisdiction over this civil action as it involves a claim arising under the federal Magnuson-Moss Warranty Act (“MMWA”), 15 U.S.C. § 2301 et seq. *See* 28 U.S.C. § 1331.

18. The MMWA states in relevant part that a plaintiff may bring such a claim in federal court where the amount in controversy exceeds \$50,000. *See* 15 U.S.C. § 2310(d)(3)(B). The amount in controversy under the MMWA is determined by the damages sought under the MMWA claim and not an aggregate of all pendent state law claims. *See Misel v. Mazda Motor of America, Inc.*, 420 Fed.Appx. 272, 274 (4<sup>th</sup> Cir. 2011).

19. As set forth above, Plaintiffs seek to recover a full refund of the contact price in the amount of \$112,363.44 in connection with the MMWA claim (*see* Complaint ¶ 19). Therefore, it is facially apparent from the Complaint that the amount in controversy for Plaintiffs' claims under the MMWA exceeds \$50,000. *See Woods, supra*. Accordingly, jurisdiction is proper pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 2310(d)(3)(B).

20. Moreover, this Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367. Specifically, Plaintiffs' claims under the MMWA and the Virginia Lemon Law are all based upon the same allegations that the subject vehicle contained alleged defects that were not timely repaired (*see* Complaint, Exhibit "A" hereto). Accordingly, this Court has jurisdiction over Plaintiffs' state law claims because such claims are derived from the same common nucleus of factual allegations and thus, are part of the same case or controversy as Plaintiffs' claims under the federal MMWA. *See* 28 U.S.C. § 1367(a).

---

### **III. ALL PROCEDURAL REQUIREMENTS HAVE BEEN MET FOR REMOVAL TO THIS COURT**

21. With the filing of this Notice of Removal, Defendant Tesla is providing written notice to all parties of record and is filing a copy of this Notice of Removal with the clerk of the Circuit Court, City of Lynchburg, Virginia, pursuant to 28 U.S.C. § 1446(d).

22. Pursuant to 28 U.S.C. § 1446(a) no other state court process, pleadings, orders or papers have been served upon Defendant other than the Summons and Complaint attached hereto as Exhibit "A".

23. This Court embraces the county and court in which the State Action was initially filed. *See* 28 U.S.C. § 127. Therefore, this action is properly removed to this Court.

///



WHEREFORE, Defendant Tesla Motors, Inc. respectfully requests that this matter, currently pending in the Circuit Court of the City of Lynchburg, Virginia be removed to this Court.

Dated: Albany, New York  
March 9, 2021

ROSEWALDORF PLLC

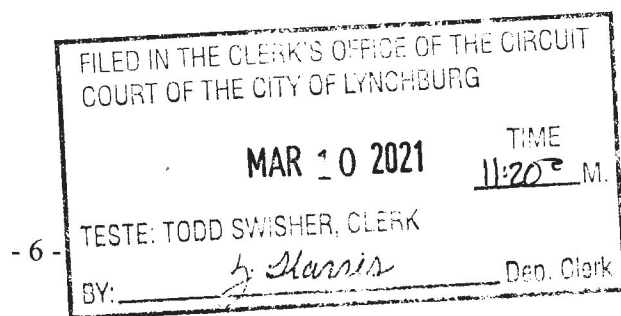
By: s/ Mark W. Skanes  
Mark W. Skanes, Esq.  
(Va. Bar No.: 86953)  
Attorneys for Defendant  
Tesla Motors, Inc.  
501 New Karner Rd.  
Albany, New York 12205  
Phone: (518) 869-9200  
Fax: (518) 869-3334  
mskanes@rosewaldorf.com

**CERTIFICATE OF SERVICE**

I hereby certify that this Notice of Removal and Civil Cover Sheet, filed through the ECF system on this date, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered.

Dated: Albany, New York  
March 9, 2021

s/ Mark W. Skanes  
Mark W. Skanes, Esq. (Va. Bar No.: 86953)





# EXHIBIT A

FILED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF LYNCHBURG	
MAR 10 2021	TIME 11:20 <sup>3</sup> M.
TESTE: TODD SWISHER, CLERK	
BY: <u>J. Harris</u>	Dep. Clerk

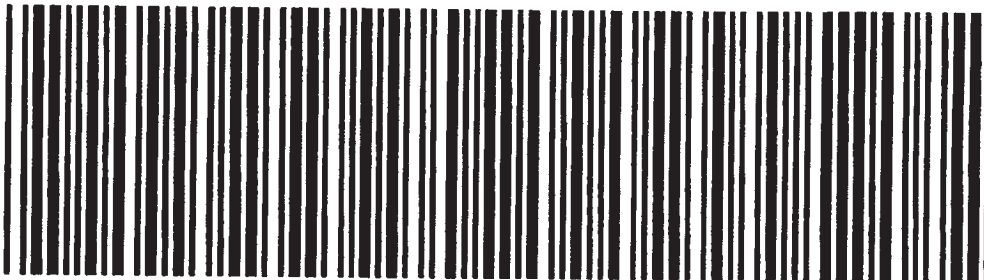


## PROCESS SERVER DELIVERY DETAILS

**Date:** Tue, Feb 16, 2021

**Server Name:** Sharon Condrey

Entity Served	TESLA MOTORS, INC. (USED IN VA BY: TESLA, INC.)
Agent Name	C T CORPORATION SYSTEM
Case Number	680CL21000115-00
Jurisdiction	VA



CT#50188

COMMONWEALTH OF VIRGINIA



LYNCHBURG CIRCUIT COURT  
Civil Division  
900 COURT STREET P. O. BOX 4  
LYNCHBURG VA 24505  
(434) 455-2620

Summons

To: TESLA, INC D/B/A TESLA MOTORS  
R/A CT CORPORATION SYSTEM  
4701 COX RD  
STE 285  
GLEN ALLEN VA 23060

Case No. 680CL21000115-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Wednesday, February 10, 2021

Clerk of Court: TODD SWISHER

by

A handwritten signature in black ink, appearing to be "T. Swisher", written over a horizontal line.

(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name: FEINMAN, JAMES  
1003 CHURCH ST  
LYNCHBURG VA 24505

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF LYNCHBURG

WESTWARD INVESTMENT  
PROPERTIES, L.L.C., a Virginia  
Limited Liability Company

and

TONY DEMARCO WEST

*Plaintiffs,*

v.

TESLA, INC. d/b/a  
TESLA MOTORS, INC.,

Please serve:  
Registered Agent  
C T CORPORATION SYSTEM.  
4701 Cox Rd Ste 285  
Glen Allen, VA 23060

*Defendant.*

COMPLAINT

CASE NO.: CL21000115

NOW INTO COURT, through undersigned counsel, come Plaintiffs, Westward Investment Properties, L.L.C., a Virginia Limited Liability Company, and Tony DeMarco West (herein Mr. West) and move the Court for judgment against Defendant Tesla, Inc. d/b/a Tesla Motors, Inc. on the following grounds of fact and law:

1. On September 1, 2019, Plaintiffs purchased a new 2019 Tesla Model X, VIN 5YJXCBE26KF192766, manufactured by Tesla, Inc., from a licensed Tesla dealership located at 9850 W. Broad Street, Glen Allen, VA 23060. The vehicle was purchased with an odometer reading of 50 miles, and for a total delivery price of \$112,363.44.
2. The vehicle came with a warranty from Tesla, Inc. d/b/a Tesla Motors, Inc.

3. The warranty includes Basic Coverage over the entire vehicle, unless specifically excluded, for four years or 60,000 miles, whichever came first.
4. The vehicle's doors in Plaintiffs' vehicle are covered under the Basic Coverage Warranty.
5. On June 9, 2020, Plaintiff Mr. West delivered the vehicle to the dealership's repair facility. The vehicle's passenger side falcon door was not closing properly. At this time, the vehicle had a mileage of 8,903. The dealership attempted to repair the defect and returned the vehicle to Mr. West on June 09, 2020.
6. On August 26, 2020, Mr. West returned the vehicle to the dealership again, to repair right-hand rear falcon door because it was not closing. The dealership attempted to repair the issue and returned the vehicle to Mr. West on August 26, 2020.
7. On September 23, 2020, Mr. West returned the vehicle to the dealership again because the falcon door both would not close all the way and was opening more slowly. The dealership attempted to repair the defects and returned the vehicle to Mr. West on September 23, 2020.
8. On October 28, 2020, Mr. West returned the vehicle to the dealership for repairs to the passenger falcon door that was still not closing. By this time, the left-hand side rear falcon door was opening slowly or not opening at all. The dealership attempted to repair the defect. The vehicle was returned to Mr. West on October 28, 2020.
9. The defects of the driver's side and passenger's side rear falcon doors not opening and/or closing properly remain unrepaired. Plaintiffs' vehicle is defective,

and cannot be repaired after a reasonable number of attempts. Accordingly, Plaintiffs filed this suit.

10. Written notice of the defects and nonconformities to the warranty enumerated above have been provided to Defendant on January 19, 2021 in accordance with VA Code § 59.1-207.13(E).

**COUNT I – VIOLATION OF THE VIRGINIA  
MOTOR VEHICLE WARRANTY ENFORCEMENT ACT**

11. The facts alleged in paragraphs 1-10 are incorporated herein by reference.
12. The Plaintiffs' vehicle is a "lemon" under the Virginia Motor Vehicle Warranty Enforcement Act (VA Code § 59.1-207.9, *et seq.*). Plaintiffs are consumers as defined in VA Code § 59.1-207.11. Defendant Tesla, Inc. d/b/a Tesla Motors, Inc. is a manufacturer as defined in VA Code § 59.1-207.11.

- ~~13. It is presumed that a reasonable number of repair attempts have been made~~  
pursuant to Virginia Code § 59.1-207.13(B)(2). Defendant Tesla, Inc. d/b/a Tesla Motors, Inc. has not conformed the vehicle to the applicable warranty during the Lemon Law rights period, in spite of notice being given within the required period. The Plaintiffs are entitled to a full buy-back of the vehicle, including: the full contract price, all collateral damages, incidental damages, interest, and reasonable attorney's fees (calculated at \$500.00 per hour or 1/3rd of the total recovery, whichever is greater) and costs.



**COUNT II – VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT**

14. The facts alleged in paragraphs 1-10 are incorporated herein by reference.
15. Plaintiffs are consumers as defined in 15 U.S.C. § 2301(3). Defendant meets the definition of a supplier and warrantor as defined in 15 U.S.C. § 2301(4)-(5). The vehicle is a consumer product as defined in 15 U.S.C. § 2301(1).
16. The vehicle was manufactured after July 4, 1975, and an express Limited Warranty and an implied warranty of merchantability was given to Plaintiffs as a part of the purchase, warranties which meet the definition of written warranty and implied warranty as contained in 15 U.S.C. § 2301(6)-(7), respectively.
17. The Warranty has failed its essential purpose and the Defendant has violated the Act due to their inability to repair or replace the nonconformities within a reasonable time, and their refusal to provide the Plaintiffs with a refund as required in 15 U.S.C. § 2304(a)(1) and (4).
18. The Defendant has also breached its implied warranties of merchantability since the vehicle, in view of the nonconformities that exist and the Defendant's inability to correct them, is not fit for the ordinary purpose for which the vehicle is being used. See 15 U.S.C. §§ 2308, 2310(d).
19. As a proximate result of Defendant's violations of the Magnuson-Moss Warranty Act and breach of their warranties, the Plaintiffs are entitled to rescission of the contract and a full buy-back of the vehicle, including: the full contract price, all collateral damages, incidental damages, interest, and reasonable attorney's fees (calculated at \$500.00 per hour or 1/3rd of the total recovery, whichever is greater) and costs. See 15 U.S.C. §§ 2304(a) and 2310(d).

WHEREFORE, Plaintiffs, Westward Investment Properties, L.L.C. and Tony DeMarco West respectfully pray that this Court enter judgment in their favor against the Defendant, granting Plaintiffs' demands: for rescission of the contract, actual damages of \$112,363.44, for all incidental damages after purchase, for attorney's fees and costs in the amount of \$500.00 per hour or 1/3<sup>rd</sup> of the total recovery, whichever is greater, and all other relief law and equity may provide.

**TRIAL BY JURY IS DEMANDED.**

Respectfully submitted,

Westward Investment Properties, L.L.C. &  
Tony DeMarco West

By: 

Of Counsel

James B. Feinman, Esq. (VSB # 28125)  
Blake K. Huddleston, Esq. (VSB # 93572)  
James B. Feinman & Associates  
1003 Church Street  
PO Box 697  
Lynchburg, Virginia 24505  
434-846-7603  
434-846-0158 (fax)  
[jb@jfeinman.com](mailto:jb@jfeinman.com)  
[blake@jfeinman.com](mailto:blake@jfeinman.com)  
Counsel for Plaintiffs

VALIDATE PAGE PAPERS  
FILE : 21000002818  
DATE : 03/10/2021 TIME : 09:04  
CASE : 6800:21000115-00  
ACCT : WESTWARD INVESTMENT PROPERTIES  
AMT : \$296.00

# EXHIBIT B

## Entity Information

### Entity Information

Entity Name: Tesla Motors, Inc.

Entity ID: F1845868

Entity Type: Stock Corporation

Entity Status: **Active**

Formation Date: N/A

Reason for Status: Active and In Good Standing

VA Qualification Date: 12/21/2010

Status Date: 12/21/2010

Industry Code: 0 - General

Period of Duration: Perpetual

Jurisdiction: DE

Annual Report Due Date: N/A

Registration Fee Due Date: Not Required

Charter Fee: \$2500.00

### Registered Agent Information

RA Type: Entity

Locality: HENRICO COUNTY

RA Qualification: BUSINESS ENTITY THAT IS AUTHORIZED TO  
TRANSACTION BUSINESS IN VIRGINIA

Name: C T CORPORATION SYSTEM

Registered Office Address: 4701 Cox Rd Ste 285, Glen Allen, VA, 23060 - 6808,  
USA

### Principal Office Address

Address: 3500 Deer Creek Rd, Palo Alto, CA, 94304, USA

([https://www.scc.virginia.gov/cn/cn\\_contact.aspx](https://www.scc.virginia.gov/cn/cn_contact.aspx))

Principal Information (<https://www.facebook.com/VirginiaStateCorporationCommission>)

(<https://twitter.com/VASateCorpComm>)

Title	Director	Name	Address	Last Updated
President	Yes	Elon Musk	3500 Deer Creek Road, Palo Alto, CA, 94304, USA	12/22/2020
Secretary	No	Al Prescott	3500 Deer Creek Rd, Palo Alto, CA, 94304, USA	12/22/2020
Vice President, Treasurer	No	Yaron Klein	3500 Deer Creek Road, Palo Alto, CA, 94304, USA	12/22/2020

#### Current Shares

Total Shares: 2100000000

[Filing History](#)

[RA History](#)

[Name History](#)

[Previous Registrations](#)

[Garnishment Designees](#)

[Image Request](#)

[Back](#)

[Return to Search](#)

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[Back to Login](#)

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# EXHIBIT C

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## Entity Information

### Entity Information

Entity Name: Westward Investment Properties, L.L.C.

Entity ID: S1934001

Entity Type: Limited Liability Company

Entity Status: **Active**

Formation Date: 07/11/2006

Reason for Status: Active

VA Qualification Date: 07/11/2006

Status Date: 08/27/2012

Industry Code: 0 - General

Period of Duration: Perpetual

Jurisdiction: VA

Annual Report Due Date: N/A

Registration Fee Due Date: Not Required

Charter Fee: N/A

### Registered Agent Information

RA Type: Individual

Locality: LYNCHBURG CITY

RA Qualification: Member or Manager of the Limited Liability Company

Name: TONY D WEST

Registered Office Address: 2600 MEMORIAL AVENUE, LL1, LYNCHBURG, VA, 24501 - 0000, USA

### Principal Office Address

Address: 2600 MEMORIAL AVE STE LL1, LYNCHBURG, VA, 24501 - 2658, USA

Privacy Policy (<https://www.scc.virginia.gov/privacy.aspx>)

Contact Us

([https://www.scc.virginia.gov/clk/clk\\_contact.aspx](https://www.scc.virginia.gov/clk/clk_contact.aspx))

(<https://www.facebook.com/VirginiaStateCorporationCommission>)  
Principal Information (<https://twitter.com/VASateCorpComm>)

Management Structure: N/A

Filing History

RA History

Name History

Previous Registrations

Garnishment Designees

Image Request

Back

Return to Search

Return to Results

Back to Login

# EXHIBIT D

RN109526468-00-20190830153931

**LAW 553-VA-ARB-eps 7/14****RETAIL INSTALLMENT SALE CONTRACT – SIMPLE FINANCE CHARGE  
(WITH ARBITRATION PROVISION)**

Dealer Number \_\_\_\_\_ Contract Number \_\_\_\_\_

<b>Buyer Name and Address</b> (Including County and Zip Code) <b>Westward Investment Properties</b> <b>205 TRENTS FERRY RD</b> <b>LYNCHBURG, VA 24503</b>	<b>Co-Buyer Name and Address</b> (Including County and Zip Code) <b>Tony West</b> <b>205 Trents Ferry rd</b> <b>Lynchburg, VA 24503</b>	<b>Seller-Creditor (Name and Address)</b> <b>Tesla Motors, Inc.</b> 9850 W Broad Street Glen Allen, VA 23060
---	---	---

You, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit under the agreements in this contract. You agree to pay the Seller - Creditor (sometimes "we" or "us" in this contract) the Amount Financed and Finance Charge in U.S. funds according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-in-Lending Disclosures below are part of this contract.

New/Used/Demo	Year	Make and Model	Vehicle Identification Number	Primary Use For Which Purchased
New	2019	Tesla Model X	5YJXCBE26KF192766	Personal, family, or household unless otherwise indicated below <input type="checkbox"/> business <input type="checkbox"/> agricultural

FEDERAL TRUTH-IN-LENDING DISCLOSURES				
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.	Total Sale Price The total cost of your purchase on credit, including your down payment of
5.24 %	\$ 13,608.64	\$ 80,000.00	\$ 93,608.64	\$ 18,754.80 is \$ 112,363.44

**NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

Your Payment Schedule Will Be:		
Number of Payments	Amount of Payments	When Payments Are Due
72	\$ 1,300.12	Monthly beginning 10/22/2019
N/A	N/A	N/A

Or As Follows:

N/A

The preceding NOTICE applies only to goods or services obtained primarily for personal, family, or household use. In all other cases, Buyer will not assert against any subsequent holder or assignee of this contract any claims or defenses the Buyer (debtor) may have against the Seller, or against the manufacturer of the vehicle or equipment obtained under this contract.

**Late Charge.** If payment is not received in full within 7 days after it is due, you will pay a late charge of 5 % of the part of the payment that is late.

**Prepayment.** If you pay off all your debt early, you will not have to pay a penalty.

**Security Interest.** You are giving a security interest in the vehicle being purchased.

**Additional Information:** See this contract for more information including information about nonpayment, default, any required repayment in full before the scheduled date and security interest.

**Agreement to Arbitrate:** By signing below, you agree that, pursuant to the Arbitration Provision on page 5 of this contract, you or we may elect to resolve any dispute by neutral, binding arbitration and not by a court action. See the Arbitration Provision for additional information concerning the agreement to arbitrate. Westward Investment Properties

Buyer Signs X \_\_\_\_\_

Co-Buyer Signs X \_\_\_\_\_

**WARRANTIES SELLER DISCLAIMS**

Unless the Seller makes a written warranty, or enters into a service contract within 90 days from the date of this contract, the Seller makes no warranties, express or implied, on the vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose. Any implied warranties arising from a written warranty or service contract are limited to the duration of such written warranty or service contract.

This provision does not affect any warranties covering the vehicle that the vehicle manufacturer may provide.

**VSI AND OPTIONAL INSURANCE**

**Choice of Insurer.** If vendor's single interest insurance is required (as indicated below), or if you desire optional insurance, such as credit life insurance or credit disability insurance, you have the right to use alternative coverage or to buy insurance elsewhere from the agent or insurer of your choice. You may also buy required physical damage insurance from the agent or insurer of your choice. Your choice of agent or insurer will not affect our decision to extend credit or your credit terms.

☐ **VENDOR'S SINGLE INTEREST INSURANCE (VSI insurance):** If the preceding box is checked, the Creditor requires VSI insurance for the initial term of the contract to protect the Creditor for loss or damage to the vehicle (collision, fire, theft). VSI insurance is for the Creditor's sole protection. This insurance does not protect your interest in the vehicle. You may choose the insurance company through which the VSI insurance is obtained. If you elect to purchase VSI insurance through the Creditor, the cost of this insurance is \$ N/A and is also shown in Item 4B of the Itemization of Amount Financed. The coverage is for the initial term of the contract. See above for more information.

Westward Investment Properties

Buyer Signs X \_\_\_\_\_

Co-Buyer Signs X \_\_\_\_\_

RN109526468-00-20190830153931

## ITEMIZATION OF AMOUNT FINANCED

1	Cash Price (including \$ 3,930.05 sales tax)	\$ 98,630.05 (1)
2	Total Downpayment =	
	Trade-in <u>N/A</u> (Year) <u>N/A</u> (Make) <u>N/A</u> (Model)	
	Gross Trade-In Allowance	\$ 0.00
	Less Pay Off Made By Seller	\$ 0.00
	Equals Net Trade In	\$ 0.00
	- Cash	\$ 18,754.80
	- Other <u>N/A</u>	\$ N/A
	(If total downpayment is negative, enter "0" and see 4I below)	\$ 18,754.80 (2)
3	Unpaid Balance of Cash Price (1 minus 2)	\$ 79,875.25 (3)
4	Other Charges Including Amounts Paid to Others on Your Behalf (Seller may keep part of these amounts):	
A	Cost of Optional Credit Insurance	
	Paid to Insurance Company or Companies	
	Life \$ N/A	
	Disability \$ N/A	\$ N/A
B	Vendor's Single Interest Insurance	
	Paid to Insurance Company(ies)	\$ N/A
C	Other Optional Insurance Paid to Insurance Company or Companies	\$ N/A
D	Optional Gap Contract	\$ N/A
E	Official Fees Paid to Government Agencies	\$ N/A
	1) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	2) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	3) to <u>N/A</u> for <u>N/A</u>	\$ N/A
F	Government Taxes Not Included in Cash Price	\$ N/A
G	Government License and/or Registration Fees	
	Registration Fees	\$ 124.75
H	Government Certificate of Title Fees	\$ N/A
I	Other Charges (Seller must identify who is paid and describe purpose)	
	1) to <u>N/A</u> for Prior Credit or Lease Balance	\$ N/A
	2) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	3) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	4) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	5) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	6) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	7) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	8) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	9) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	10) to <u>N/A</u> for <u>N/A</u>	\$ N/A
	Total Other Charges and Amounts Paid to Others on Your Behalf	\$ 124.75 (4)
5	Amount Financed (3 + 4)	\$ 80,000.00 (5)

OPTION: ☐ You pay no finance charge if the Amount Financed, item 5, is paid in full on or before N/A, Year N/A, SELLER'S INITIALS N/A

## NO COOLING OFF PERIOD

State law does not provide for a "cooling off" or cancellation period for this sale. After you sign this contract, you may only cancel it if the seller agrees or for legal cause. You cannot cancel this contract simply because you change your mind. This notice does not apply to home solicitation sales.

OPTIONAL GAP CONTRACT. A gap contract (debt cancellation contract) is not required to obtain credit and will not be provided unless you sign below and agree to pay the extra charge. If you choose to buy a gap contract, the charge is shown in Item 4D of the Itemization of Amount Financed. See your gap contract for details on the terms and conditions it provides. It is a part of this contract.

Term N/A Mos. N/A Name of Gap Contract

I want to buy a gap contract.

Buyer Signs X

N/A

Westward Investment Properties, Inc.

Buyer Signs X

Co-Buyer Signs X

Insurance. You may buy the physical damage insurance this contract requires from anyone you choose who is authorized to sell such insurance in Virginia. Your choice will not affect our decision to extend credit or the terms of this contract. You are not required to buy any other insurance to obtain credit unless the box indicating Vendor's Single Interest insurance is required is checked on Page 1.

If any insurance is checked below, policies or certificates from the named insurance companies will describe the terms and conditions.

Check the insurance you want and sign below:

## Optional Credit Insurance

☐ Credit Life: ☐ Buyer ☐ Co-Buyer ☐ Both

☐ Credit Disability: ☐ Buyer ☐ Co-Buyer ☐ Both

Premium:

Credit Life \$ N/A

Credit Disability \$ N/A

Insurance Company Name

N/A

Home Office Address

N/A

Credit life insurance and credit disability insurance are not required to obtain credit. You have the right to use alternate coverage or buy such insurance elsewhere. Your choice of insurer will not affect our decision to extend credit or the terms of this contract. Your decision to buy or not to buy credit life insurance and credit disability insurance will not be a factor in the credit approval process. They will not be provided unless you sign and agree to pay the extra cost. If you choose this insurance, the cost is shown in Item 4A of the Itemization of Amount Financed. Credit life insurance is based on your original payment schedule. This insurance may not pay all you owe on this contract if you make late payments. Credit Disability Insurance does not cover any increase in your payment or in the number of payments. Coverage for credit life insurance and credit disability insurance ends on the original due date for the last payment unless a different term for the insurance is shown below.

## Other Optional Insurance

☐ N/A N/A  
Type of insurance Term

Premium \$ N/A

Insurance Company Name

N/A

Home Office Address

N/A

☐ N/A N/A  
Type of Insurance Term

Premium \$ N/A

Insurance Company Name

N/A

Home Office Address

N/A

Other optional insurance is not required to obtain credit. Your decision to buy or not to buy other optional insurance will not be a factor in the credit approval process. It will not be provided unless you sign and agree to pay the extra cost. Your choice of insurer will not affect our decision to extend credit or the terms of this contract.

I want the insurance checked above.

X N/A N/A  
Buyer Signature Date

X N/A N/A  
Co-Buyer Signature Date

THIS INSURANCE DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR BODILY INJURY OR PROPERTY DAMAGE.

Returned Payment Charge: If any check you give us is dishonored or electronic payment you make is returned unpaid, we may, at our option, charge you \$ 50.



RN109526468-00-20190830153931  
OTHER IMPORTANT AGREEMENTS

**1. FINANCE CHARGE AND PAYMENTS**

- a. **How we will figure Finance Charge.** We will figure the Finance Charge on a daily basis at the Annual Percentage Rate on the unpaid part of the Amount Financed.
- b. **How we will apply payments.** We may apply each payment to the earned and unpaid part of the Finance Charge, to the unpaid part of the Amount Financed and to other amounts you owe under this contract in any order we choose.
- c. **How late payments or early payments change what you must pay.** We based the Finance Charge, Total of Payments, and Total Sale Price shown on page 1 of this contract on the assumption that you will make every payment on the day it is due. Your Finance Charge, Total of Payments, and Total Sale Price will be more if you pay late and less if you pay early. Changes may take the form of a larger or smaller final payment or, at our option, more or fewer payments of the same amount as your scheduled payment with a smaller final payment. We will send you a notice telling you about these changes before the final scheduled payment is due.
- d. **You may prepay.** You may prepay all or part of the unpaid part of the Amount Financed at any time without penalty. If you do so, you must pay the earned and unpaid part of the Finance Charge and all other amounts due up to the date of your payment.
- e. **Your right to refinance a balloon payment.** A balloon payment is any payment other than a down payment that is more than 10% greater than the regular or recurring installment payments. If you use the vehicle primarily for consumer purposes, you have the right to refinance a balloon payment over an extended period with additional payments. The additional periodic payments will not be more than 10% greater than the regularly scheduled installment payments.

**2. YOUR OTHER PROMISES TO US**

- a. **If the vehicle is damaged, destroyed, or missing.** You agree to pay us all you owe under this contract even if the vehicle is damaged, destroyed, or missing.
- b. **Using the vehicle.** You agree not to remove the vehicle from the U.S. or Canada, or to sell, rent, lease, or transfer any interest in the vehicle or this contract without our written permission. You agree not to expose the vehicle to misuse, seizure, confiscation, or involuntary transfer. If we pay any repair bills, storage bills, taxes, fines, or charges on the vehicle, you agree to repay the amount when we ask for it.
- c. **Security Interest.** You give us a security interest in:
  - The vehicle and all parts or goods put on it;
  - All money or goods received (proceeds) for the vehicle;
  - All insurance, maintenance, service, or other contracts we finance for you; and
  - All proceeds from insurance, maintenance, service, or other contracts we finance for you. This includes any refunds of premiums or charges from the contracts.

This secures payment of all you owe on this contract. It also secures your other agreements in this contract. You will make sure the title shows our security interest (lien) in the vehicle. You will not allow any other security interest to be placed on the title without our written permission.

**d. Insurance you must have on the vehicle.**

You agree to have physical damage insurance covering loss of or damage to the vehicle for the term of this contract. The insurance must cover our interest in the vehicle. If you do not have this insurance, we may, if we choose, buy physical damage insurance. If we decide to buy physical damage insurance, we may either buy insurance that covers your interest and our interest in the vehicle, or buy insurance that covers only our interest. If we buy either type of insurance, we will tell you which type and the charge you must pay. The charge will be the premium of the insurance and a finance charge computed at the Annual Percentage Rate shown on page 1 of this contract or, at our option, the highest rate the law permits.

If the vehicle is lost or damaged, you agree that we may use any insurance settlement to reduce what you owe or repair the vehicle.

- e. **What happens to returned insurance, maintenance, service, or other contract charges.** If we obtain a refund of insurance, maintenance, service, or other contract charges, you agree that we may subtract the refund from what you owe.

**3. IF YOU PAY LATE OR BREAK YOUR OTHER PROMISES**

- a. **You may owe late charges.** You will pay a late charge on each late payment as shown on page 1 of this contract. Acceptance of a late payment or late charge does not excuse your late payment or mean that you may keep making late payments. If you pay late, we may also take the steps described below.

- b. **You may have to pay all you owe at once.** If you break your promises (default), we may demand that you pay all you owe on this contract at once. Default means:

- You pay any payment (plus any late charges) more than 10 days late or not at all;
- You give us false, incomplete, or misleading information on a credit application;
- You start a proceeding in bankruptcy or one is started against you or your property; or
- You break any agreements in this contract.

The amount you will owe will be the unpaid part of the Amount Financed plus the earned and unpaid part of the Finance Charge, any late charges, and any amounts due because you defaulted.

- c. **You may have to pay collection costs.** If we hire an attorney to collect what you owe, you will pay the attorney's fee and court costs as the law allows. You will also pay any collection costs we incur as the law allows.
- d. **We may take the vehicle from you.** If you default, we may take (repossess) the vehicle from you if we do so peacefully and the law allows it. If your vehicle has an electronic tracking device, you agree that we may use the device to find the vehicle. If we take the vehicle, any accessories, equipment, and replacement parts will stay with the vehicle. If any personal items are in the vehicle, we may store them for you at your expense. If you do not ask for these items back, we may dispose of them as the law allows.
- e. **How you can get the vehicle back if we take it.** If we repossess the vehicle, you may pay to get it back (redeem). We will tell you how much to pay to redeem. Your right to redeem ends when we sell the vehicle.



RN109526468-00-20190830153931

**ARBITRATION PROVISION**  
**PLEASE REVIEW - IMPORTANT - AFFECTS YOUR LEGAL RIGHTS**

1. EITHER YOU OR WE MAY CHOOSE TO HAVE ANY DISPUTE BETWEEN US DECIDED BY ARBITRATION AND NOT IN COURT OR BY JURY TRIAL.
2. IF A DISPUTE IS ARBITRATED, YOU WILL GIVE UP YOUR RIGHT TO PARTICIPATE AS A CLASS REPRESENTATIVE OR CLASS MEMBER ON ANY CLASS CLAIM YOU MAY HAVE AGAINST US INCLUDING ANY RIGHT TO CLASS ARBITRATION OR ANY CONSOLIDATION OF INDIVIDUAL ARBITRATIONS.
3. DISCOVERY AND RIGHTS TO APPEAL IN ARBITRATION ARE GENERALLY MORE LIMITED THAN IN A LAWSUIT, AND OTHER RIGHTS THAT YOU AND WE WOULD HAVE IN COURT MAY NOT BE AVAILABLE IN ARBITRATION.

Any claim or dispute, whether in contract, tort, statute or otherwise (including the interpretation and scope of this Arbitration Provision, and the arbitrability of the claim or dispute), between you and us or our employees, agents, successors or assigns, which arises out of or relates to your credit application, purchase or condition of this vehicle, this contract or any resulting transaction or relationship (including any such relationship with third parties who do not sign this contract) shall, at your or our election, be resolved by neutral, binding arbitration and not by a court action. If federal law provides that a claim or dispute is not subject to binding arbitration, this Arbitration Provision shall not apply to such claim or dispute. Any claim or dispute is to be arbitrated by a single arbitrator on an individual basis and not as a class action. You expressly waive any right you may have to arbitrate a class action. You may choose the American Arbitration Association, 1633 Broadway, 10th Floor, New York, New York 10019 ([www.adr.org](http://www.adr.org)), or any other organization to conduct the arbitration subject to our approval. You may get a copy of the rules of an arbitration organization by contacting the organization or visiting its website.

Arbitrators shall be attorneys or retired judges and shall be selected pursuant to the applicable rules. The arbitrator shall apply governing substantive law and the applicable statute of limitations. The arbitration hearing shall be conducted in the federal district in which you reside unless the Seller-Creditor is a party to the claim or dispute, in which case the hearing will be held in the federal district where this contract was executed. We will pay your filing, administration, service or case management fee and your arbitrator or hearing fee all up to a maximum of \$5000, unless the law or the rules of the chosen arbitration organization require us to pay more. The amount we pay may be reimbursed in whole or in part by decision of the arbitrator if the arbitrator finds that any of your claims is frivolous under applicable law. Each party shall be responsible for its own attorney, expert and other fees, unless awarded by the arbitrator under applicable law. If the chosen arbitration organization's rules conflict with this Arbitration Provision, then the provisions of this Arbitration Provision shall control. Any arbitration under this Arbitration Provision shall be governed by the Federal Arbitration Act (9 U.S.C. § 1 et. seq.) and not by any state law concerning arbitration. Any award by the arbitrator shall be in writing and will be final and binding on all parties, subject to any limited right to appeal under the Federal Arbitration Act.

You and we retain the right to seek remedies in small claims court for disputes or claims within that court's jurisdiction, unless such action is transferred, removed or appealed to a different court. Neither you nor we waive the right to arbitrate by using self-help remedies, such as repossession, or by filing an action to recover the vehicle, to recover a deficiency balance, or for individual injunctive relief. Any court having jurisdiction may enter judgment on the arbitrator's award. This Arbitration Provision shall survive any termination, payoff or transfer of this contract. If any part of this Arbitration Provision, other than waivers of class action rights, is deemed or found to be unenforceable for any reason, the remainder shall remain enforceable. If a waiver of class action rights is deemed or found to be unenforceable for any reason in a case in which class action allegations have been made, the remainder of this Arbitration Provision shall be unenforceable.

Westward Investment Properties by

Buyer Signs X

Co-Buyer Signs X

**ILAW**

FORM NO. 553-VA-ARB-eps (REV. 7.14) U.S. PATENT NO. D460,782

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 FITNESS FOR PURPOSE OF THIS FORM. CONSULT YOUR OWN LEGAL COUNSEL

RN109526468-00-20190830153931

- f. **We will sell the vehicle if you do not get it back.**  
If you do not redeem, we will sell the vehicle. We will send you a written notice of sale before selling the vehicle.

We will apply the money from the sale, less allowed expenses, to the amount you owe. Allowed expenses are expenses we pay as a direct result of taking the vehicle, holding it, preparing it for sale, and selling it. Attorney fees and court costs the law permits are also allowed expenses. If any money is left (surplus), we will pay it to you unless the law requires us to pay it to someone else. If money from the sale is not enough to pay the amount you owe, you must pay the rest to us. If you do not pay this amount when we ask, we may charge you interest at a rate not exceeding the highest lawful rate until you pay.

- g. **What we may do about optional insurance, maintenance, service or other contracts.** This contract may contain charges for optional insurance, maintenance, service, or other contracts. If we demand that you pay all you owe at once or we repossess the vehicle, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe or repair the vehicle. If the vehicle is a total loss because it is confiscated, damaged, or stolen, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe.

4. **Used Car Buyers Guide.** The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.

Spanish Translation: Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.

5. **SERVICING AND COLLECTION CONTACTS**

You agree that we may try to contact you in writing, by e-mail, or using prerecorded/artificial voice messages, text messages, and automatic telephone dialing systems, as the law allows. You also agree that we may try to contact you in these and other ways at any address or telephone number you provide us, even if the telephone number is a cell phone number or the contact results in a charge to you.

6. **APPLICABLE LAW**

Federal law and the law of the state of our address shown on page 1 of this contract apply to this contract.

**The Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to receive a part of the Finance Charge.**

**HOW THIS CONTRACT CAN BE CHANGED.** This contract, along with all other documents signed by you in connection with the purchase of the vehicle, comprise the entire agreement between you and us affecting this purchase. No oral agreements or understandings are binding. Upon assignment of this contract: (i) only this contract and addenda to this contract comprise the entire agreement between you and the assignee relating to this contract; (ii) any change to this contract must be in writing and the assignee must sign it; and (iii) no oral changes are binding. Buyer Signs X By Westward Investment Properties Co-Buyer Signs X

If any part of this contract is not valid, all other parts stay valid. We may delay or refrain from enforcing any of our rights under this contract without losing them. For example, we may extend the time for making some payments without extending the time for making others.

See the rest of this contract for other important agreements.

## NO LIABILITY INSURANCE INCLUDED

**NOTICE TO RETAIL BUYER:** Do not sign this contract in blank. You are entitled to a copy of the contract at the time you sign. Keep it to protect your legal rights.

You agree to the terms of this contract. You confirm that before you signed this contract, we gave it to you, and you were free to take it and review it. You acknowledge that you have read all pages of this contract, including the arbitration provision on page 5, before signing below. You confirm that you received a completely filled-in copy when you signed it.

Buyer Signs X By Westward Investment Properties Date 09/07/2019 Co-Buyer Signs X Date 09/07/2019

Co-Buyers and Other Owners — A co-buyer is a person who is responsible for paying the entire debt. An other owner is a person whose name is on the title to the vehicle but does not have to pay the debt. The other owner agrees to the security interest in the vehicle given to us in this contract.

Other owner signs here X N/A Address N/A  
Seller signs Tesla Motors, Inc. Date 09/07/2019 By George Bahaduc Title Mgr, Delivery Ops

Seller assigns its interest in this contract to TD Auto Finance LLC (Assignee) under the terms of Seller's agreement(s) with Assignee.

☐ Assigned with recourse

☒ Assigned without recourse

☐ Assigned with limited recourse

Seller Tesla Motors, Inc. By George Bahaduc Title Manager, Delivery Ops

Westward Investment Properties By

Buyer Signs X

Co-Buyer Signs X

JS 44 (Rev. 10/20)

**CIVIL COVER SHEET****Case No. 6:21CV00012**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Westward Investment Properties, LLC and Tony DeMarco West

(b) County of Residence of First Listed Plaintiff City of Lynchburg, Va.  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

James B. Feinman, Esq. James B. Feinman & Associates  
1003 Church St. Lynchburg, VA 24505 (434)846-7603**DEFENDANTS**

Tesla Motors, Inc.

County of Residence of First Listed Defendant Santa Clara, CA  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Mark W. Skanes, Esq. RoseWaldorf PLLC  
501 New Karner Rd. Albany, NY 12205 (518)869-9200**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 USC 2201

Brief description of cause:  
Breach of Warranty/Lemon Law**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE  
03/09/2021

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

AWA WDC-3647878

RECEIPT # AMOUNT \$402.00

APPLYING IFP No

JUDGE Moon

MAG. JUDGE

42



FILED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF LYNCHBURG	
<b>MAR 10 2021</b>	TIME <b>11:20</b> M.
TESTE: TODD SWISHER, CLERK	
BY: <i>J. Harris</i>	Dep. Clerk

LYNCHBURG CIRCUIT  
WESTWARD INVESTMENT  
PROPERTIES

vs.

Case No.:CL21000115-00  
TESLA, INC

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TABLE OF CONTENTS

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Document Index	Date Filed	Page
<b>Manuscripts:</b>		
INITIAL FILING - CNTR:	02/10/2021	1 - 5
MISCELLANEOUS	02/10/2021	6 - 6
CORRESPONDENCE	02/10/2021	7 - 9
TESLA, INC D/B/A TESLA MOTORS - SPS	02/10/2021	10 - 12
NOTICE - OF FILING REMOVAL	03/10/2021	13 - 43

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I, Kenneth T. Swisher, Clerk of the Lynchburg Circuit, certify that the contents of the record listed in the table of contents constitute the true and complete record, except for exhibits whose omission are noted in the table of contents.